

pain medication as well as crutches with the admonition of no weight bearing for ten days. Although the doctor's records focus on claimant's right knee, claimant testified she also complained of right groin and hip pain. Claimant testified the pain worsened and a few days later she contacted the doctor but was advised she hadn't given the injury enough time to heal.

On February 13, 2002, the claimant's house alarm was accidentally activated and claimant got up and using her crutches went to turn the alarm off. While she was turning the alarm off, she heard something snap and immediately experienced pain and her leg went numb. Claimant was transported to the emergency room and diagnosed with a broken right hip. Surgery was performed the following day.

The emergency department's report of February 13, 2002, reflects claimant gave a history of achiness in her right hip since a near fall approximately one week ago and that it was initially thought the pain was secondary to knee problems.

A co-employee, Jennifer Brehon, testified she did not recall seeing claimant slip as they left work on February 2, 2002. However, Ms. Brehon noted that because of the length of claimant's sweater or coat she wouldn't have been able to see if claimant slipped or jarred herself.

The workers compensation act places the burden of proof upon the claimant to establish the right to an award of compensation and to prove the conditions on which that right depends.¹ "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record."²

Respondent argues the co-employee's testimony refutes claimant's assertion that she suffered an accident. In the alternative, the respondent further argues that if claimant suffered an accidental injury it was limited to her knee and there is no causal relationship between such knee injury diagnosed by her doctor and the later hip fracture.

The claimant testified that when she slipped on February 2, 2002, she heard a pop and experienced pain in her right hip, groin and leg. Claimant further testified she complained to her doctor of her hip pain. Although his records indicate he focused on claimant's knee, the later emergency room report corroborates claimant's consistent history of hip pain after the slipping incident on February 2, 2002. Moreover, claimant was not placing any weight on her right leg but the pain increased to the point where she contacted her doctor before the next scheduled appointment. Lastly, the co-employee's testimony

¹K.S.A. 44-501(a).

²K.S.A. 44-508(g).

was equivocal and contained the admission that she wouldn't have been able to see if claimant had slipped.

The Board affirms the Administrative Law Judge's determination claimant suffered accidental injury arising out of and in the course of her employment on February 2, 2002.

Respondent next contends there is no medical evidence that claimant's hip injury was causally related to the slip incident on February 2, 2002.

A claimant's testimony alone is sufficient evidence of the claimant's physical condition.³ Medical evidence is not essential to the establishment of the existence, nature and extent of an injured worker's disability.⁴

Claimant testified she experienced hip and groin pain following the incident on February 2, 2002. Although she was on crutches with no weight bearing on her right leg, she further experienced worsening pain in her leg. When she got up to turn off the house security alarm, she used her crutches and experienced the sudden onset of leg pain. Claimant did not fall, rather she just heard a pop. The Board is persuaded that for the purposes of preliminary hearing, claimant's testimony establishes the causal relationship between the February 2, 2002 incident and her hip injury.

As provided by the Act, preliminary hearing findings are not binding but are subject to modification upon a full hearing on the claim.⁵

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Order of Administrative Law Judge John D. Clark dated June 27, 2002, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of August 2002.

BOARD MEMBER

³Hanson v. Logan U.S.D. 326, 28 Kan. App.2d 92, 11 P.3d 1184 (2000), *rev. denied* ___ Kan. ___ (2001).

⁴Chinn v. Gay & Taylor, Inc., 219 Kan. 196, 547 P.2d 751 (1976).

⁵K.S.A. 44-534a(a)(2).

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 John D. Clark, Administrative Law Judge
 Director, Division of Workers Compensation